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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

PATRICIA HEWLETT,

Plaintiff and Appellant,

v.

ANA SILVIA GUEVARA CAMPOS-
SAZO,

Defendant and Respondent.

A154711

(San Francisco County
Super. Ct. No. PTR-17-301402)

Patricia Hewlett purports to appeal from a probate court order confirming trust assets. We dismiss the appeal because Hewlett lacks standing to prosecute this appeal.

FACTUAL AND PROCEDURAL BACKGROUND

Documents filed in the probate court indicate the following. Maria Berta Campos was married to Henry Joseph Solorzano (Solorzano). By grant deed recorded with the San Francisco Assessor-Recorder in 2002, Solorzano granted Campos one-half “of his interest as tenants in common” in certain residential real property located on 16th Street in San Francisco (16th Street property). A title guarantee filed in the probate court shows that title in the 16th Street property as of January 2018 was vested in three persons: Campos, as to an undivided one-quarter interest; the San Francisco Public Guardian as conservator for the estate and person of Solorzano, as to an undivided one-quarter interest; and Richard Solorzano, as to an undivided one-half interest. Campos died in 2010. Ana Silvia Guevara Campos-Sazo is Campos’s daughter from a prior marriage.

On November 17, 2017, Campos-Sazo, as trustee of the Maria Berta Campos Living Trust, Dated September 10, 2002 (Campos living trust), filed a petition for order confirming trust assets (petition for confirmation). Campos-Sazo sought an order from the probate court that Campos's interest in the 16th Street property was an asset of the Campos living trust subject to the trustee's management and control.

On January 12, 2018, Hewlett, acting in propria persona, filed as an "objector" an "opposition" to the petition for confirmation and request for waiver of filing fees. On January 17, 2018, the court denied the request for a fee waiver on the ground the request was incomplete. On February 13, 2018, the probate court entered an order striking Hewlett's filing of January 12, 2018, because no fees had been paid within 10 days of the denial of the request for a fee waiver.

On February 6, 2018, Hewlett filed another fee waiver request, which again was denied because the request was incomplete. On February 20, 2018, Hewlett filed another opposition as objector to the petition for confirmation. Two days later, she filed a "motion for peremptory challenge," purporting to challenge Honorable Peter J. Busch and Honorable John K. Stewart. On March 2, 2018, the probate court entered orders denying Hewlett's peremptory challenge and striking her statement of disqualification.

Hewlett filed additional requests for waiver of filing fees. On March 20, 2018, she filed another motion for peremptory challenge of Honorable Peter J. Busch. On April 6, 2018, Hewlett filed another opposition as objector to the petition for confirmation. The same day, the court granted Hewlett's most recent fee waiver request.

On April 30, 2018, the court held a hearing on the petition for confirmation. Attorney Francisco Gutierrez appeared for Campos-Sazo, who was present, and Hewlett was also present in propria persona.

According to the clerk's mini minutes for the hearing, "The Court informed Ms. Hewlett that she has no standing in this matter and no interest in this Trust, that the property was transferred to Ms. Campos in 2002, and that her objections are overruled. Ms. Hewlett stated that she will re-file a peremptory challenge [her current challenge having been denied as not properly served and lacking any supporting factual

allegations], that Mr. Solorzano is the sole owner of the property, and that he signed a declaration in 2017. Mr. Gutierrez stated that the transfer was between 2 married people in 2002 [Solorzano to Campos], that the deed was recorded, that [Gutierrez] filed this petition because they need someone to help manage the property, and he has obtained a title guarantee The Court granted the petition for order confirming trust assets (subject to review of the order).”¹

The order granting petition for order confirming trust assets was filed on May 11, 2018.

DISCUSSION

“The right to appeal is purely statutory. [Citation.] Code of Civil Procedure section 902 defines ‘Who May Appeal’ from a judgment. [Citation.] The statute provides ‘ “Any party *aggrieved*” may appeal from an adverse judgment. (Code Civ. Proc., § 902.) The test is twofold—one must be both [1] a party of record to the action and [2] aggrieved to have standing to appeal.’ [Citation.] Thus, notwithstanding an appealable judgment or order, ‘[a]n appeal may be taken only by a party who has standing to appeal. [Citation.] This rule is jurisdictional. [Citation.]’ ” (*Conservatorship of Gregory D.* (2013) 214 Cal.App.4th 62, 67, some italics omitted (*Gregory D.*)).

“ “ “One is considered “aggrieved” whose rights or interests are injuriously affected by the judgment.’ [Citation.]” ’ [Citation.] The appellant’s ‘interest “ “must be immediate, pecuniary, and substantial and not nominal or a remote consequence of the judgment.’ ” [Citation.]’ [Citation.] Conversely, “ “ ‘A party who is not aggrieved by an order or judgment has no standing to attack it on appeal.’ ” ’ ” (*People ex rel. Allstate Ins. Co. v. Dahan* (2016) 3 Cal.App.5th 372, 376–377 (*Dahan*)).

In probate proceedings, a person or entity is a party with standing to participate in a probate matter if that person or entity is an “interested person,” as provided in Probate

¹ The appellate record consists of the clerk’s transcript only. There is no reporter’s transcript of this hearing.

Code section 48.² (See *Estate of Maniscalco* (1992) 9 Cal.App.4th 520, 523 [to have standing to move to vacate a probate court order, the prospective movant must be an “interested person” under section 48]; *Estate of Davis* (1990) 219 Cal.App.3d 663, 668 [when a person appears in a probate matter, the judge determines whether to permit that person to participate as an “interested person” under section 48].)

Here, in the orders denying Hewlett’s initial peremptory challenges, the probate court explained that Hewlett was not an “interested person” under section 48 because she “has no personal interest or claim in the trust estate, she has no priority for appointment and she is not a fiduciary representing an interested person.” Again at the hearing on April 30, 2018, the probate court informed Hewlett she had no standing. The probate court in effect determined that Hewlett was not a proper party of record in this matter.

In her opening brief, Hewlett does not address standing. She does not claim, for example, that she should have been deemed a party in the proceedings below or that she was aggrieved by the court’s order.³ Campos-Sazo argues the appeal must be dismissed because Hewlett lacks appellate standing. In her reply brief, Hewlett asserts, for the first time, that she has standing “as Mr. Solorzano’s helper, companion and designated attorney-in-fact.” We agree with Campos-Sazo that Hewlett lacks appellate standing.

First, Hewlett has not shown she was a party of record in this probate matter. Assuming for the sake of argument that Solorzano could have been a party of record as

² Probate Code section 48 provides: “(a) Subject to subdivision (b), ‘interested person’ includes any of the following: [¶] (1) An heir, devisee, child, spouse, creditor, beneficiary, and any other person having a property right in or claim against a trust estate or the estate of a decedent which may be affected by the proceeding. [¶] (2) Any person having priority for appointment as personal representative. [¶] (3) A fiduciary representing an interested person. [¶] (b) The meaning of ‘interested person’ as it relates to particular persons may vary from time to time and shall be determined according to the particular purposes of, and matter involved in, any proceeding.”

Further undesignated statutory references are to the Probate Code.

³ In her opening brief, Hewlett contends only that the petition for confirmation was time-barred.

an “interested person” with standing to object to the petition for confirmation, this does not mean Hewlett could claim party status as his “helper” or “companion.” (Cf. *Gregory D.*, *supra*, 214 Cal.App.4th at p. 68 [mother lacked standing to assert error affecting her son only; injurious effect on another party is insufficient to confer appellate standing].) There is no evidence in the record that Hewlett was Solorzano’s attorney-in-fact for purposes of this proceeding, and, in any event, Hewlett could not represent Solorzano in propria persona even if she had power of attorney. (See *People By and Through Dept. of Public Works v. Malone* (1965) 232 Cal.App.2d 531, 536 [person with power of attorney could not carry on litigation for his principal without an attorney; “A power of attorney does not permit an agent to act as an attorney at law”].)

Second, Hewlett has not even attempted to show she was aggrieved. A party is aggrieved for appellate standing purposes if the judgment or order appealed from injuriously affects the party’s rights or interests. (*Dahan*, *supra*, 3 Cal.App.5th at p. 376.) “This is ‘no mere technicality, but is grounded in the most basic notion of why courts entertain civil appeals. We are here to provide relief for appellants who have been wronged by trial court error. Our resources are limited and thus are not brought to bear when appellants have suffered no wrong but instead seek to advance the interests of others who have not themselves complained.’ ” (*Gregory D.*, *supra*, 214 Cal.App.4th at p. 68.) Hewlett does not claim any interest in the Campos living trust or the 16th Street property, and she has not explained how the probate court’s order granting the petition for confirmation could have affected *her* rights or interests. Accordingly, Hewlett is not aggrieved for purposes of appellate standing.

DISPOSITION

The appeal is dismissed.

Miller, J.

We concur:

Kline, P. J.

Richman, J.

A154711, *Hewlett v. Campos-Sazo*